

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

JEROD KELLY,

Plaintiff,

v.

Civil Action No. 2:20-cv-00822

**OFFICER MATTHEW COOPER,
LT. DAN WYATT, and OFFICER MITCHELL**

Defendants.

COMPLAINT

For his Complaint against Defendants, Plaintiff Jerod Kelly states as follows:

Parties

1. The Plaintiff at all times relevant to this Complaint was a resident of Kanawha County, West Virginia, within the United States Southern District of West Virginia.
2. Defendants Officer Matthew Cooper, Lt. Dan Wyatt, and Officer Mitchell, at all times relevant to this Complaint, were St. Albans Police Officers acting under the color of law and within the scope of his employment.

Jurisdiction and Venue

3. This Court has jurisdiction pursuant to 28 U.S.C. 1331 and 1343.

Facts

4. Plaintiff hereby incorporates by reference all the aforementioned paragraphs.
5. On or about December 15, 2018, Jerod Kelly and his girlfriend were arguing at a bus stop in St. Albans, W. Va.
6. The Defendants responded to the bus stop and without justification, the three officers attacked, beat, and stomped Plaintiff causing serious bodily and subsequently charged him with the misdemeanor of obstruction.
7. At no time did Plaintiff resist arrest or pose a threat to the officers, and he was compliant with all commands.

8. The use of force was excessive and far exceeded the force necessary to gain compliance of Plaintiff.
9. Defendants sustained no injuries from the incident.
10. Plaintiff was immediately transported to Thomas Memorial Hospital where he was treated and diagnosed with a severe head injury, multiple abrasions to his skull and face, including bone fractures.
11. Plaintiff sustained severe head injuries which caused memory loss, stuttering, and headaches.







COUNT I
42 U.S.C. § 1983
Excessive Force

12. Plaintiff incorporates by reference the aforementioned paragraphs.
13. The degree of force used against Plaintiff was objectively unreasonable, excessive and unwarranted and violated Plaintiff's clearly established rights, which a reasonable police officer should have known pursuant to the Fourth of the United States Constitution.
14. The actions of Defendants were malicious and in bad faith, in violation of clearly established law, or in a wanton or reckless manner, and as a proximate result thereof, the Plaintiff sustained physical, mental and emotional damages, incurred medical expenses, lost wages, suffered embarrassment, humiliation, annoyance, inconvenience, and suffered otherwise, and is entitled to recover damages and such other relief deemed appropriate.

COUNT II
Bystander Liability

15. Plaintiff hereby incorporate by reference the aforementioned paragraphs.
16. Defendants' actions and/or omissions violated their duty to uphold the law and protect the public from illegal acts, regardless of who commits them.
17. As a proximate result of the Defendants' actions and/or omissions, Plaintiff is entitled to recover damages including, but not limited, to physical, mental and emotional damages, incurred medical expenses, suffered embarrassment, humiliation, annoyance, inconvenience, and are entitled to recover damages for the same, and such other relief deemed appropriate.

PRAYER FOR RELIEF

WHEREFORE, based upon the above stated facts, Plaintiff requests judgment against the defendants in an amount that will fully and fairly compensate him for his injuries including medical expenses, pain and suffering, loss of enjoyment of life, annoyance, aggravation, psychological distress, lost wages, and any other compensatory damages to be proved at trial. Plaintiff requests punitive damages against the defendants, reasonable attorney fees and costs, all other damages provided by law and any other relief this Court deems just and fair.

JURY TRIAL DEMANDED

JEROD KELLY
BY COUNSEL



Mark S. Plants WVS#9760
Plants Law Offices
320 2nd Avenue
South Charleston, WV 25303
mplants@plantslaw.com